

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FCS ADVISORS, LLC,

Plaintiff,

—against—

21 Civ. 6995 (PKC)

THEIA GROUP, INC., d/b/a “THORIAN
GROUP” and/or “CYPHERIAN”; THEIA
AVIATION, LLC; and THEIA HOLDINGS
A, INC., d/b/a “THORIAN HOLDINGS,”

Defendants.

**NOTICE OF FILING OF FIRST AMENDMENT
TO ASSET PURCHASE AGREEMENT**

PLEASE TAKE NOTICE that on January 17, 2023, Michael Fuqua, as receiver (the “Receiver”) for Theia Group, Inc., (“TGI”), Theia Aviation LLC (“Theia Aviation”), and Theia Holdings A, Inc. (“Theia Holdings”), by and through his undersigned counsel, filed the (i) *Notice of Expedited Motion of Receiver for an Order Further Extending the Stay Provided in the Receivership Order* [Docket No. 316]; (ii) *Memorandum of Law in Support of Expedited Motion of Receiver for an Order Further Extending the Stay Provided in the Receivership Order* [Docket No. 317]; and (iii) *Declaration of Michael Fuqua, as Receiver, in Support of Expedited Motion of Receiver for an Order Further Extending the Stay Provided in the Receivership Order* [Docket No. 318] (the “Receiver Declaration”).

PLEASE TAKE FURTHER NOTICE that the executed *Asset Purchase Agreement* dated as of January 17, 2023 (the “APA”) by and among TGI, Theia Aviation, and Theia Holdings, as sellers and Rising Sky, LLC, as buyer (“Buyer”), was the attached to the Receiver Declaration as Exhibit 1.

PLEASE TAKE FURTHER NOTICE that attached hereto as Exhibit A is a *First Amendment to Asset Purchase Agreement* (the “APA Amendment”), which includes (i) an amendment to the definition of “F&F Obligations” and (ii) a Revised Schedule 1.01(II) thereto.

PLEASE TAKE FURTHER NOTICE that the APA Amendment clarifies that the definition of “F&F Obligations” is intended to reflect the approximate total amount of debt (including outstanding principal invested and the returns thereon) owed to holders of Secured Convertible Promissory Notes who sign a note purchase agreement with the Buyer at any time prior to Closing. Thus, the term “F&F Obligations” reflects the total amount of debt owed to investors that the Buyer must satisfy at Closing.

PLEASE TAKE FURTHER NOTICE that the amount of “outstanding principal investment” on Revised Schedule 1.01(II) reflects *only* the principal invested by holders of F&F Obligations that remains outstanding (*i.e.*, does not include promised returns) because the Buyer agreed with those holders to purchase their claims in exchange for 120% of such outstanding principal investment.

PLEASE TAKE FURTHER NOTICE that copies of the Receiver Declaration, the APA, the APA Amendment, and Revised Schedule 1.1(II) can be obtained (i) for a fee through the Court’s website at <https://www.nysb.uscourts.gov/> referencing Case No. 21-Civ.-6995 (PKC) or (ii) for free upon request directed to counsel for the Receiver, Reed Smith LLP, 1201 N. Market Street, Suite 1500, Wilmington, Delaware 19801, Attn: Jason D. Angelo, Esq. (jangelo@reedsmith.com).

Dated: January 25, 2023

Respectfully submitted:

REED SMITH LLP

By: /s/ Kurt F. Gwynne

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- and -

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*Counsel for Michael Fuqua, in his capacity as
Receiver of Theia Group, Inc., Theia Aviation LLC,
and Theia Holdings A, Inc.*